(c) The Commission will modify the proposed civil money penalty only if the respondent is able to demonstrate that the amount of the proposed civil money penalty was calculated on an incorrect basis.

(d) When the Commission makes a final determination under this section, the statement of reasons for the Commission action will, unless otherwise indicated by the Commission, consist of the reasons provided by the reviewing officer for the recommendation, if approved by the Commission, although statements setting forth additional or different reasons may also be issued. If the reviewing officer's recommendation is modified or not approved, the Commission will indicate the grounds for its action and one or more statements of reasons may be issued.

[65 FR 31794, May 19, 2000, as amended at 72 FR 14668, Mar. 29, 2007]

§ 111.38 Can the respondent appeal the Commission's final determination?

Yes; within thirty (30) days of receipt of the Commission's final determination under 11 CFR 111.37, the respondent may submit a written petition to the district court of the United States for the district in which the respondent resides, or transacts business, requesting that the final determination be modified or set aside. The respondent's failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondent's right to present such argument in a petition to the district court under 2 U.S.C. 437g.

§ 111.39 When must the respondent pay the civil money penalty?

(a) If the respondent does not submit a written petition to the district court of the United States, the respondent must remit payment of the civil money penalty within thirty (30) days of receipt of the Commission's final determination under 11 CFR 111.37.

(b) If the respondent submits a written petition to the district court of the United States and, upon the final disposition of the civil action, is required to pay a civil money penalty, the respondent shall remit payment of the civil money penalty to the Commission within thirty (30) days of the final disposition of the civil action. The final disposition may consist of a judicial decision which is not reviewed by a higher court.

(c) Failure to pay the civil money penalty may result in the commencement of collection action under 31 U.S.C. 3701 *et seq*. (1996), or a civil suit pursuant to 2 U.S.C. 437g(a)(6)(A), or any other legal action deemed necessary by the Commission.

§ 111.40 What happens if the respondent does not pay the civil money penalty pursuant to 11 CFR 111.34 and does not submit a written response to the reason to believe finding pursuant to 11 CFR 111.35?

(a) If the Commission, after the respondent has failed to pay the civil money penalty and has failed to submit a written response, determines by an affirmative vote of at least four (4) of its members that the respondent has violated 2 U.S.C. 434(a) and determines the amount of the civil money penalty, the respondent shall be notified by letter of its final determination.

(b) The respondent shall transmit payment of the civil money penalty to the Commission within thirty (30) days of receipt of the Commission's final determination.

(c) Failure to pay the civil money penalty may result in the commencement of collection action under 31 U.S.C. 3701 *et seq*. (1996), or a civil suit pursuant to 2 U.S.C. 437g(a)(6)(A), or any other legal action deemed necessary by the Commission.

§ 111.41 To whom should the civil money penalty payment be made payable?

Payment of civil money penalties shall be made in the form of a check or money order made payable to the Federal Election Commission.

§ 111.42 Will the enforcement file be made available to the public?

(a) Yes; the Commission shall make the enforcement file available to the public.

(b) If neither the Commission nor the respondent commences a civil action, the Commission shall make the enforcement file available to the public pursuant to 11 CFR 4.4(a)(3).

(c) If a civil action is commenced, the Commission shall make the enforcement file available pursuant to 11 CFR 111.20(c).

§ 111.43 What are the schedules of penalties?

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$1–4,999.99 [a]	[$25 + ($5 x Number of days late)] × [1 + (.25 × Number of previous violations)].	$250 × [1 + (.25 × Number of previous violations)].
$5,000–9,999.99	[$55 + ($5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$330 × [1 + (.25 × Number of previous violations)].
$10,000–24,999.99	[$110 + ($5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$550 × [1 + (.25 × Number of previous violations)].
$25,000–49,999.99	[$200 + ($20 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$990 × [1 + (.25 × Number of previous violations)].
$50,000–74,999.99	[$330 + ($82.50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$2,970 × [1 + (.25 × Number of previous violations)].
$75,000–99,999.99	[$440 + ($110 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$3,850 × [1 + (.25 × Number of previous violations)].
$100,000–149,999.99	[$660 + ($125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$4,950 × [1 + (.25 × Number of previous violations)].
$150,000–199,999.99	[$880 + ($150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$6,050 × [1 + (.25 × Number of previous violations)].
$200,000–249,999.99	[$1,100 + ($175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$7,150 × [1 + (.25 × Number of previous violations)].
$250,000–349,999.99	[$1,500 + ($200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$8,800 × [1 + (.25 × Number of previous violations)]
$350,000–449,999.99	[$2,000 + ($200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$9,900 × [1 + (.25 × Number of previous violations)].
$450,000–549,999.99	[$2,500 + ($200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$10,450 × [1 + (.25 × Number of previous violations)].
$550,000–649,999.99	[$3,300 + ($200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$11,000 × [1 + (.25 × Number of previous violations)].
$650,000–749,999.99	[$3,850 + ($200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$10,500 × [1 + (.25 × Number of previous violations)].
$750,000–849,999.99	[$4,400 + ($200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$11,000 × [1 + (.25 × Number of previous violations)].
$850,000–949,999.99	[$4,950 + ($200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$11,500 × [1 + (.25 × Number of previous violations)].
$950,000 or over	[$5,500 + ($200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$12,000 × [1 + (.25 × Number of previous violations)].

[a] The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$1–4,999.99 [a]	[$55 + ($10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$550 × [1 + (.25 × Number of previous violations)].
$5,000–9,999.99	[$110 + ($10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$660 × [1 + (.25 × Number of previous violations)].